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December 10, 2019

**VIA CM/ECF**

Hon. Esther Salas, U.S.D.J.  
United States District Court  
District of New Jersey  
Dr. Martin Luther King Jr. Fed. Bldg.  
50 Walnut Street  
Newark, New Jersey 07601

**RE: Dialectic Distribution, LLC v. YRC Freight**  
**Case No. 2:19-cv-16719**  
**Our File No. 29116**

Dear Judge Salas:

We represent Defendant, YRC Freight in the above referenced matter.

We respectfully submit this letter in connection with the December 10, 2019 Initial Conference before Federal Magistrate Judge Waldor. This case arises from allegations of damage to cargo transported in interstate commerce by a Federally authorized motor carrier. The case is governed exclusively by the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 14706 ("Carmack").

On November 5, 2019 we filed a Motion to Dismiss the Complaint [Docket Entry No.: 5] inasmuch as it failed to plead a cause of action pursuant to Carmack and thus failed to state a claim.

On December 3, 2019 Plaintiff filed Opposition to our Motion to Dismiss [Docket Entry No.: 9] and filed a Motion to Amend the Complaint [Docket Entry No.: 8].

We reviewed the Amended Complaint attached to Plaintiff's Motion to Amend [Docket Entry No.: 8] and based thereon, it appears the Plaintiff dropped the state-created causes of action and now pleads a cause of action pursuant to Carmack and only Carmack.

As we indicated to Federal Magistrate Judge Waldor during the December 10, 2019 Initial Conference and while reserving all other substantive and procedural rights, we write to respectfully advise the Court we withdraw our Motion to Dismiss [Docket Entry No.: 5] and we consent to Plaintiff filing the proposed Amended Complaint attached to their Motion to Amend [Docket Entry No.: 8].



**PRICE, MEESE, SHULMAN & D'ARMINIO**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS

Assuming the foregoing is acceptable to Your Honor and assuming Plaintiff formally files the Amended Complaint attached to its Motion to Amend [Docket Entry No.: 8], we can then file our Answer and Defenses pursuant to the Rules of Court and the case can proceed accordingly on the merits.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

**PRICE MEESE SHULMAN & D'ARMINIO, P.C.**

*/s/ Thomas C. Martin* 

Thomas C. Martin

TCM/eh

cc: Hon. Cathy L. Waldor, U.S.M.J.  
David J. Rubenstein, Esq.